THE IRS: END IT BECAUSE YOU CAN'T MEND IT

Do you fear the Internal Revenue Service, even though you have done nothing wrong? Most Americans do, and for good reason.

For decades, the courts, congressional hearings and the press have documented a steady stream of abuses by IRS personnel and federal prosecutors dealing with tax cases.

Last week, a federal judge dismissed charges against 13 former employees of the accounting firm KPMG because the government had violated their rights, in what had been billed by the government as its biggest-ever tax shelter case.

The basic functions of government are to protect person and property and to ensure liberty. Far too often, the IRS unjustifiably takes people's property and denies them their liberty. The KPMG case is a prime example of such behavior by IRS personnel and Justice Department lawyers. KPMG had been selling advice regarding certain tax shelters, which no court had ever found illegal.

The IRS nevertheless indicted KPMG partners and others for selling the tax shelter advice and went on to threaten the firm if it paid for the legal defense of its employees as it was obligated to do.

KPMG, remembering what happened to the accounting firm Arthur Andersen in the Enron case, agreed to a plea deal. (Even though the Arthur Andersen firm was found to be innocent of wrongdoing by the courts, the government actions before the case was settled caused the firm's collapse, resulting in tens of thousands of innocent people losing their jobs and pensions.)

In dismissing the case against the KPMG defendants, U.S. District Court Lewis Kaplan said, in part: "Their [the government prosecutors'] deliberate interference with the defendants' rights was outrageous and shocking in the constitutional sense because it was fundamentally at odds with two of our most basic constitutional values: the right to counsel and the right to fair criminal proceedings."

The judge quoted a previous, famous decision regarding proper prosecutorial conduct: "[A prosecutor] is the representative not of an ordinary party to a controversy, but of a sovereignty whose obligation to govern impartially is as compelling as its obligation to govern at all; and whose interest, therefore, in a criminal prosecution is not that it shall win a case but that justice shall be done."

When you read the statements of the prosecutors for the IRS and Justice Department in this case,

you realize how indifferent to the concepts of "innocent until proven guilty" and fundamental liberty, let alone adherence to the Constitution, have become to all too many who serve in government.

Despite overwhelming evidence of disgraceful and illegal government behavior (in the private sector it would be called extortion), the government has decided to appeal the case. Have they no shame?

These rogue prosecutors and IRS agents continue behaving poorly because there is no penalty for them doing so.

So what, if they force innocent people to spend millions of dollars defending themselves against bogus charges, or destroy productive and upstanding businesses and those who work for them? They know they are unlikely to be held accountable for their misdeeds since they are protected by "sovereign immunity" and civil service protections.

They will not be demoted, fired, fined and jailed as they would be in a more just society, and many will go on to get high-paying private-sector jobs. In fact, some prosecutors, despite having many white-collar cases thrown out of court or overturned on appeal, after causing great hardship to many innocent people, get themselves elected to high office. New York Gov. Elliot Spitzer is exhibit A.

Two decades ago, extensive congressional hearings were held concerning abuses by the IRS, which resulted in passage of the Taxpayer Bill of Rights. There was some improvement in IRS behavior for a while, but now they have drifted back to traditional form as we have seen in the KPMG case and others.

Thus, in order to protect the constitutional liberties of the American people from abusive tax enforcers, there are only two alternatives:

(1) The first is to greatly reduce "sovereign immunity" and civil service protections from government agents and prosecutors so IRS agents can more easily be fined and *sent to jail* for violations of the law and Constitution.

(2) The second is to largely *get rid of the IRS* because attempts at IRS reform never work.

As long as the tax code is so lengthy and complex (more than 60,000 pages) no single person can understand it, it will continue to serve as an instrument for abuse by all too many in government.

The tax code can be simplified by putting in a simple flat-rate system, or, better yet, a national sales tax that would not require the IRS to know anything about any individual other than his or her Social Security number.

Congress can make the necessary reforms to the justice and tax systems to keep innocent people from being bankrupted, fined and even jailed by rogue prosecutors. But necessary action by Congress will only occur when enough citizens have the courage to demand it.

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